



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Planning Board Minutes, APPROVED

Wednesday April 20, 2016

7:00pm @ Community Development Department

Call to Order/Attendance/Pledge of Allegiance:

Paul Gosselin, Chairman-present

Kristi St. Laurent, Vice Chair-present

Dan Guttman-present

Ruth-Ellen Post-present

Margaret Crisler-present (left at the recess, 9:30pm)

Alan Carpenter-present (arrived at 8:10pm, seated at 9:30pm)

Gabe Toubia, alternate-present (seated for Alan Carpenter until 9:30pm, then seated for Margaret Crisler at 9:30pm)

Matt Rounds, alternate-present (seated for Ms. Post at 10:35pm)

Kathleen DiFrusia, alternate-present (arrived at 7:03pm)

Ross McLeod- Selectman's Representative

Staff:

Laura Scott, Community Development Director

Anitra Brodeur, Minute Taker

Dick Gregory, Code Enforcer

The meeting began at 7:00pm.

Interviews and Appointments

A motion was made by Ross McLeod to nominate Mark Samsel to the Southern NH Planning Commission Peter Griffin and Mark Samsel. Seconded by Mr. Toubia.

Vote 6-0-1.

Mr. McLeod abstained.

The Board discussed Alternate Planning Board Member(s).

Mr. Gosselin summarized the by laws of the Planning Board in reference to alternate members.

Mr. McLeod stated that three alternates are sufficient at this time.

Ms. Crisler stated that it does get more citizens involved in the process. Ms. Post agrees.

Mr. Rounds, as an alternate, spoke to the heavy time commitment needed by an alternate.

Mr. Guttman does see the value of serving as an alternate, prior to becoming a full member, although he was not an alternate himself.

Vice Chair St. Laurent spoke to how there was a chance that if there were four rather than alternates, the current alternates would not be able to be as involved in the process and may be less motivated to come. She is happy with the participating alternate members at this time and would not wish to alter that.

Mr. Toubia, as an alternate, agrees with Vice Chair St. Laurent.

Ms. DiFrusia agrees with Mr. Toubia and Vice Chair St. Laurent. To be able to be a regular voting member is a valuable experience.

A motion was made by Mr. McLeod to stay with the three alternates and have staff write a letter to the potential alternates respectfully declining at this time. Vice Chair St. Laurent seconded for discussion.

Discussion

Ms. Post wanted to reiterate how excellent the current alternate members are.

Ms. Crisler would hate to have any of the potential alternate members discouraged. She stated that Mr. Garrett was a wonderful candidate and she would like to see him involved in town in some way. She was very impressed with his resume.

Mr. Guttman stated that the Board did solicit alternate members and did not wish for the Board to be seen as changing their minds.

**Vote 4-3
Motion passes**

Ms. Post, Ms. Crisler, and Mr. Guttman opposed.

Ms. Crisler addressed the Board regarding the Selectmen's meeting. Ms. Crisler stated that Ms. DiFrusia did a wonderful job presenting the proposal. The Selectmen decided not to have a Special Election.

Ms. DiFrusia stated that Ms. Crisler did a wonderful job with her piece of the presentation as well.

Mr. McLeod also stated that the presentation was wonderful and respectful. He stated that it could still be moved forward as a Citizen's Petition.

Major Watershed Applications

Case #2016-12 A Major Cobbetts Pond and Canobie Lake Watershed Application.

This application has been submitted for 160 Range Road (lot 21-K-18B). The applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of the property owner, Bull Pines RTc/o Brian Harvey, is proposing to construct a new dwelling; the resulting impervious coverage will be 7%.

Mr. Gregory stated that staff does recommend approval for the plan. Ms. DiFrusia asked Mr. Gregory to look at the property. They do have erosion control in place at this time.

The lot is currently a vacant lot with very low impervious surface. There is no access to Cobbetts Pond on this property.

Ms. DiFrusia asked about the run off that was coming down that area of Range Road. Ms. DiFrusia spoke to any planting that Mr. Harvey could install. The plantings would be very beneficial to help with erosion control.

Mr. Guttman was happy with the location of the septic system, it had been moved since previous plans. Mr. Maynard stated that this was a conventional septic system.

Chairman Gosselin opened the discussion for public comment.

A motion was made by Mr. McLeod to approve the site plan as presented with the condition that 6 inches of loam is required where 4 inches have been suggested. Seconded by Mr. Toubia.

Vote 7-0.

Motion passes.

Case #2016-13 A Major Cobbetts Pond and Canobie Lake Watershed Application.

This application has been submitted for 25A Cobbetts Pond Road (lot 21-Z-268). The applicant, Joseph Maynard of Benchmark Engineering, Inc., on behalf of the property owner, Carr Hill RT, is proposing to raze four (4) structures and construct one (1) new dwelling with attached garage. The existing impervious is 29.2 % and the proposed will be 30%.

Mr. Gregory recommends approval pending necessary permits.

Mr. Maynard addressed the Board. He spoke to impervious coverage; he had been to the state offices earlier today to work out what level of impervious surfaces were required.

Ms. DiFrusia asked about item #8 on Mr. Keach's memo. Mr. Maynard stated that the state is fine with the 11 ft. swath that needs to be there for the installation of the well. Trees are being taken down to do this.

Mr. Maynard next spoke to the approved planting that the applicant would need plant after the home had been built. DES is specifically targeting Windham this summer in regards to the enforcement of approved site design.

Mr. Guttman asked about the driveway's location. Mr. Maynard stated that DOT needed the driveway to be in a certain location because of the large drop off on Cobbetts Pond Road that had been built up by 18 inches many years ago.

Ms. Crisler asked about impervious surface and the infiltration trenches off the dip line of the house. The propane tank will be buried.

Ms. Post spoke to the site plan reaching the limit of impervious surface, which was a concern.

Discussion was open and closed to the public.

A motion was made by Ms. Crisler to approve the application with the following stipulations:

- Receipt of the NHDES Construction Approval for the planned on-site subsurface and sewage disposal system
- Receipt of NHDES Shoreline Permit and add permit # to the plan
- 6 inches of loam
- Condition of approval: “as built”
- Substitute grass swale for dry well on the plan

Seconded by Ms. McLeod.

Ms. DiFrusia spoke to #9 of Mr. Keach’s memo. Mr. Maynard stated that the grass swale would be a dry well.

Vote 7-0.

Motion passes.

Public Hearings – Continued from April 6, 2016

Case #2016-10 Preliminary Major Site Plan/WWPD Special Permit Application for 13 & 15 Indian Rock Road (11-A-250 & 11-A-530)

A Preliminary Major Site Plan Application & WWPD Special Permit Application has been submitted by Karl Dubay, of the Dubay Group, on behalf of Village Center Properties, for 13 & 15 Indian Rock Road (Lots 11-A-520/530) in the Village Center & WWPD Districts. The application is for 2 buildings – Building A will contain 1,290sqft retail & 2,280sqft bank with a drive thru – & Building B will be 2-stories & contain 6,300sqft retail & 6,300 sq ft office. Associated parking, lightning, landscaping, drainage & site improvements are proposed. This property is subject to the provisions of Section 719 of the Zoning Ordinance - Historic Building/Structure Demolition/Substantial Modification Delay Ordinance.

Ms. Scott spoke to the plan that had been changed for 2 building to 3 buildings, all within the WWPD impact, which requires a variance. The hearing notices contain 2 buildings, not 3 buildings.

A motion was made to open the Public Hearing by Ms. Crisler. Seconded by Mr. McLeod.

Vote 7-0.

Motion passes.

Mr. Karl Dubay addressed the Board. He would like to address the two specific items. He is proposing for less impact in the WWPD. Additionally, he stated that there is less parking.

Mr. Dubay submitted for Design Review a plan that had two buildings. The building on the left is the same building and has shifted away from the WWPD slightly. The second building has been integrated as a “drive thru” between the two buildings. Mr. Dubay referred to it as a “separated building” and further explained that it is attached. Mr. Dubay stated it is a structure that has a common roof.

Mr. Guttman stated he is much more impressed with the newer design. He asked about the “hammer head” in the top left corner. Mr. Dubay stated it was for further connectivity and further growth.

Ms. Post stated that the applicant is not looking for a final plan this evening; this is a preliminary discussion.

Ms. DiFrusia stated that this looks like a very impressive plan. She asked for clarification regarding the roof that separates the retail space and the bank.

Mr. Rounds stated he thought that this was three buildings but a better traffic design. He asked about parking and the “dog leg” design of the parking.

Mr. McLeod stated that he liked this lay out better.

Ms. Scott stated that the motion from ZBA was for the approval of two buildings. All approvals hinge on two buildings, not on square footage.

Mr. Gosselin would like to move forward and provide guidance on this plan. Mr. Gosselin is encouraging the applicant to go back to ZBA and request clarification on their approval. Mr. Gosselin asked the Board if any members were not in agreement with his interpretation.

Mr. Dubay asked if Mr. Chris McCarthy, the owner, could address the Board.

The WWPD line is not on the upgraded plan. Mr. Dubay stated that it should be. Mr. Dubay stated that the whole front of this site is in WWPD. There is a large drainage ditch in the front.

Mr. Dubay stated that the site is using an existing well that is already there. Mr. Dubay stated that they are reusing assets where they can. He cited several locations in town where wells were being reused.

Ms. Crisler asked about septic systems. Mr. Dubay stated that the septic systems would be on site. The existing septic may be able to be repurposed and reused if it is able to meet DES criteria. There will be a new septic system built for the other building. She also asked about traffic. She specifically asked if it would be right turn in right turn out. Mr. Dubay stated that they would be required to have a driveway access permit plan.

Mr. Dubay discussed the interconnectivity of the Village Center District.

Mr. Dubay spoke to the cabin that is on the property. He and the owner did do a site walk with the Heritage Commission. Ms. Crisler spoke to this portion of the property. Ms. Pimm does know quite a bit about the building and people in town may not be happy if the cabin is not preserved.

Ms. Post spoke to the village center feel of the potential property. Mr. Dubay stated that the sidewalk is 8 feet in width. There are also some outdoor stairways on the property; there would be outdoor plaza areas for potential customers. Ms. Post asked Mr. Dubay and the applicant to consider future bike racks and benches.

Also, Ms. Post hopes that the cabin might be a tie in to future publically used space. She would also like to hear more about the pond. The pond would have a lot of capacity. It would have a “rock” type of look to it. Ms. Post then asked about the parking situation. She asked if Mr. Dubay could try to get creative with the parking on Route 111. Mr. Dubay reassured that Board that he and the applicant are looking for creative solutions around such a solution.

Mr. Chris McCarthy, 17 Nottingham Road and owner of the above property, addressed the Board. He stated that the Village Center Subcommittee has been striving towards connectivity and a Master Plan that looks cohesive and merged.

Water has been a resource that restricts development. Without a consistent public water source, it is difficult for potential tenants to move forward with some potential projects in the District.

Mr. McCarthy stated that there is a user for the bank property; they would like to be in the property by next year. There was also a discussion of the Beautification Committee in town and how the same landscape architect for the town project will be assisting.

Ms. DiFrusia asked about future potential tenants and what the buildings could accommodate. Also, she asked about a fountain being added to the water so that an attractive water feature could be highly visible.

Mr. Rounds asked about geothermal; Mr. McCarthy is entertaining utilizing this for the larger building. The piping of the building will be set up to accommodate a larger water system moving in.

Mr. Carpenter asked about the water systems across the street and whether or not the property owner would be interested in the systems across the street.

Next, Mr. Carpenter asked about connectivity to other properties. How do you get interconnectivity to other properties? Mr. Carpenter brought up the issue of a “service road” and how that would help too many curb cuts coming off of Route 111.

Mr. Guttman spoke to the traffic flow as it is anticipated on this property. The drive thru function will be tight to the building; it will not exit straight out to Route 111.

Mr. Carpenter asked about the pond. Mr. Dubay said that it does give them treatments credits as a wet pond. Mr. Carpenter would like to see the Village Center be attractive and set a standard for future properties.

Vice Chair St. Laurent asked about signage. There are no signs on the potential plan. Mr. Dubay would like to have some coordination with Design Review to come up with a solution for the sign.

Ms. Crisler spoke about the pond. She would like to see the water feature be integrated into the signage solution. It is an opportunity.

Discussion was open for Public comment at 9:19pm.

Peter Griffin addressed the Board He mentioned a TIF district as it is being done successfully in other local cities and towns. He discussed the potential for the integration of bike trails. He also talked about stone walls and the preservation of these walls.

Public comment was closed at 9:23pm.

A motion was made by Ms. Crisler to close the public hearing. Seconded by Mr. Guttman.

Ms. Scott listed out the suggestions of the Board for the applicant.

- Consider geothermal for heating and cooling purposes
- Reconstruct and/or reuse the stone walls that are on the site
- Enhance the wet pond to make it more a more appealing feature of the site
- Look into the concerns raised about the drive thru exit location
- Provide a more “village center” feel to the proposal
- Review the Rte. 111/Wall Street Corridor Study to make sure that what is proposed is not in conflict with that plan
- Add more public space and amenities
- Make sure to take into consideration potential future connections to abutting parcels

- Add additional landscaping along Rte. 111 in coordination with NHDOT
- Materials and colors used for the buildings are important and will set the tone for the project
- Review the Village Center Master Plan layout, once staff provides it to you, and see if you are able to incorporate ideas
- Revisit the 3/22/16 Variance granted for WWPD impact to make sure that the revised site layout provided on April 13th conforms to the Variance granted.

Chairman Gosselin offered another friendly reminder around the ZBA variance so it did not harm the application later on.

A motion was made by Ms. Crisler to end the Preliminary Hearing. Seconded by Mr. Guttman.

Vote 7-0.

Motion passes.

9:29pm

There was a brief 5-minute recess as staff exchanged seats once again.

Ms. Crisler left the meeting at 9:30pm.

Public Hearings

Case # 2016-11/ Minor Site Plan Application/49 Range Road/Lot 18-L-400

A Minor Site Plan Application has been submitted for 49 Range Road (18-L-400), located in the Professional, Business & Technology District, Residence A District, Cobbetts Pond & Canobie Lake Watershed Protection District & Wetland & Watershed Protection District (WWPD). The Applicant, Edward N. Herbert Associates, Inc., on behalf of Mashop Development, LLC, is requesting to amend its March 6, 2013 Planning Board approved site plan, which was signed on May 15, 2013. The proposed application is for approximately 1.5 acres of disturbance/re-grading/filling of the site, which is outside of the WWPD. The applicant is asking for a waiver from Section 303.3.4 to allow the grading to exceed 1,500 sq. ft. Per Section 303.5 of the Site Plan Regulations, if the application does not qualify as a Minor Site Plan then it will be deemed a Major Site Plan & the application will be heard as a Preliminary Major Site Plan Application.

Mr. Carpenter would like to know what the issue is around the approved existing site plan.

Mr. Gregory stated that the applicant has gone beyond the limit of work. The power company did install lines. The applicant got a bit carried away in spreading the material to cover the utilities conduit.

Vice Chair St. Laurent would like to see this considered a Major Site Plan since extensive work has already been done on the property prior to the applicant coming before the Board.

Ms. Post does agree with Vice Chair St. Laurent. Ms. Post cited Mr. Keach's itemized memo.

Mr. Carpenter then read from the regulations to clarify if it was a major or minor site plan.

Mr. Peter Zodhi addressed the Board. Initially, the electric company asked for polls. Later on, a conduit underground was used for all utilities. Mr. Zodhi did state that there was a section of the property that was disturbed. Mr. Zodhi stated that the previous owners of the property had not made the site as clean as possible; he stated that he merely cleaned up the site. This is why so much material has been moved.

Vice Chair St. Laurent stated that this property and this applicant have been before the Board in the past for work done without site approval. Vice Chair St. Laurent disagreed with the Minor Site Plan request because work was done well beyond that required by the utility and exceeding the Minor Site Plan allowable grading square footage.

A motion was made by Mr. Guttman to open this as a Preliminary Major Site Plan at 9:58pm. Seconded by Vice Chair St. Laurent.

**Vote 4-3
Motion passes.**

Mr. Gosselin, Mr. Toubia, Mr. Carpenter-opposed

Discussion

Vice Chair St. Laurent showed pictures of Tate Brothers trucks on the property as of today.

Mr. Carpenter asked Mr. Gregory when this would come back to the Board as a Major Site Plan.

Ms. Post would like to know how unstable the property is at this time. Mr. Gregory stated that the best way to secure the property is to loam and seed it. She would like to know, from Mr. Gregory, if there is a temporary fix for this.

Vice Chair St. Laurent asked what erosion control measures are in place at this time. Vice Chair St. Laurent further stated that silt fencing could be installed to secure the site and then grading could then be discussed.

Mr. Carpenter stated that he has an obligation to the community to secure the site for the citizens and for the protection of the Canobie Lake. He stated that we have an environmental issue here.

Vice Chair St. Laurent stated that it is important to do the erosion control measures and then follow up with the discussion about grading.

Chairman Gosselin opened the discussion for public comment at 10:14pm.

Mr. Rounds highlighted the lack of ability to financially penalize this applicant.

John Cronin addressed the Board as the attorney for the applicant. He suggested that his client could make a donation for his infractions.

Tom Case addressed the Board. He does not see the end result being any different if grading is suggested. He is in agreement with Mr. Carpenter.

Jay Yennaco, as a direct abutter at Delahunty's Nursery, addressed the Board. He stated that he has no issue with the work that has been done thus far. Mr. Yennaco is coming upon the busy season for a nursery. He would like to see the pile of loam stabilized.

Public comment has been closed at 10:20 pm.

A motion was made by Mr. Carpenter that the Board require the applicant to comply with the following stipulations:

- no additional grading will be done to the site
- disturbed areas will be seeded and loamed within 10 days
- installation of silt fencing around entire disturbed area
- hay bales between the property and Canobie Lake
- straw as overseed over the soil
- an as built of the property by May 4th, 2106
- a full site plan that will come before the Board within 90 days.

Seconded by Mr. Toubia.

Chairman Gosselin stated that he would be in favor of the motion at this time.

Ms. Post would like to thank Mr. Carpenter for coming up with a compromise. She is interested in businesses succeeding in this town.

Mr. Gregory will need to enforce the stipulations set forth.

Vote 6-0-1.

Motion passes

Mr. McLeod abstained.

A motion was made by Mr. Guttman to waive the by laws and continue new business after 10 pm. Seconded by Vice Chair St. Laurent.

Vote 7-0.

Motion passes.

Ms. Post needed to leave at this time, 10:35pm.

Mr. Rounds is now seated for Ms. Post at 10:35pm.

Compliance Hearing/Legal Documents/Case#2014-33/Highclere Subdivision

A compliance hearing is being held for Case/2014-33/Highclere Subdivision Lots 11-A-1400 & 1418 (Pilgrim Road), located in the Rural District, Wetland and Watershed Protection District Zone, and Aquifer Protection District. The applicant, Karl Dubay of the Dubay Group, Inc., on behalf of the property owner, AWAC Realty Trust is proposing requesting review and approval of the following: Declaration of Open Space Covenants, the Trail easement Document, Homeowner's Document, and Conservation Easement Document as is required by the 9/16/15 Planning Board Conditional Approval.

A motion was made to open the Public Hearing by Mr. Guttman. Seconded by Vice Chair St. Laurent.

Vote 6-0-1.

Motion passes.

Mr. Rounds abstained.

Mr. Carpenter read Section 2.4. He is not sure how Section 2.4 is complimentary to the easement usage.

Chairman Gosselin spoke to the conservation easement and what would be an appropriate use under the easement.

Mr. Carpenter also spoke to Article 10.1. He wanted to know if the property owners could vote to no longer be a part of the conservation easement?

They cannot by vote change the deed according to Ms. DiFrusia and Mr. McLeod.

Conservation easement- “for consideration paid” . Mr. Carpenter would like the lot numbers checked. He would like those clarified by the town attorney.

Mr. Dubay addressed the Board. He promised that he would circulate an email from an abutter to include her when the Trails Committee came to lie out the trails near her property. That email was submitted to staff.

A motion was made by Mr. Carpenter to accept the documents regarding the trails within the Open Space Subdivision. Seconded by Mr. Toubia.

Vote 7-0.

Motion passes

Financial Guarantee – Walkers Woods

A motion was made by Mr. Toubia to release \$47,819.79 to the developer at Weston Estates Subdivision. This would leave \$77,310.82 left for the completion of the project. Seconded by Mr. Rounds.

Vote 6-0-1.

Mr. McLeod abstained.

Motion passes.

The Board voted to adjourn at 10:45pm.

Respectfully submitted by Anitra Brodeur